Ontario
Municipal
Board

84th ANNUAL REPORT

April 1, 1989 to March 31, 1990

John P. Kruger
Chairman

J.G. Malcolm
Secretary and Chief
Administrative Officer

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Vous pouvez vous procurer le présent document en vous addressant au:

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Ontario
Municipal
Board

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Toronto, Ontario
M5G 1E5

The Honourable Ian G. Scott, Q.C.
Attorney General
Ministry of the Attorney General
720 Bay Street, 11th Floor
Toronto, Ontario

Dear Sir:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1989-90 fiscal year.

A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, school boards and universities. It is available in English and French.

John P. Kruger
Chairman

J. G. Malcolm
Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act enacted in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained to this date. In addition, many other statutes have assigned jurisdiction or authority to the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A. Many of those listed result in infrequent applications or appeals.

MEMBERS OF THE BOARD

As of March 31, 1990, there were 30 Members of the Board, including the Chairman and six Vice-Chairmen. Members of the Board during the 1989-1990 fiscal year are listed on Chart B. Each is appointed by the Lieutenant-Governor-in-Council and serve on a full-time basis. They are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions: — accountants, engineers, architects, planners, municipal administrators and lawyers.

The Board wishes to acknowledge the contributions of Henry E. Stewart, Peter M. Brooks, Q.C., Colin G. Charron, Q.C., Ernest F. Crossland and George M. Hobart, all of whom retired during 1989/90.

The retirement of Mr. Stewart at the end of this fiscal year was a great loss to the Board. A Member since April 1, 1974, Mr. Stewart was appointed to the position of Chairman on September 1, 1979.

Mr. Brooks, a Member of the Board for almost sixteen years, and a Vice-Chairman for seven, retired April 30, 1989.

Mr. Charron, a Member of the Board for fifteen years, retired March 31, 1990.

Mr. Crossland, a Member of the Board for more than seven years, retired January 31, 1990.

Mr. Hobart, a Member of the Board for almost eight years, retired July 31, 1989.

The Board welcomed five new Members during this past fiscal year. They are Claudette Millar, Ted Yao, Narasim Katary, Frank Watty and Robert Eisen.

Ms Miller joined the Board on May 15, 1989. Previously Mayor of the City of Cambridge, where she served for several terms, she brings to the Board many years' experience in regional and municipal governments.

Ted Yao joined the Board on July 3, 1989. He has held the position of solicitor with the cities of Toronto, Mississauga, and Oshawa and was an Urban Planner with the National Capital Commission, Ottawa.

Narasim Katary joined the Board on August 1, 1989. He was a Long Range Planner with the Regional Municipality of Sudbury prior to joining the Board.

MEMBERS *(Continued)*

Frank Watty joined the Board on August 1, 1989. Prior to his appointment, he was the Director of Planning with the Regional Municipality of Waterloo.

Robert Eisen joined the Board on January 16, 1990. He was previously a Vice-Chairman serving with the Environmental Assessment Board of Ontario.

In March of 1989 the Board welcomed a new Chairman, John P. Kruger. Mr. Kruger's association with Provincial and Municipal governments spans many years. He has held the position of Chairman of the Ontario Automobile Insurance Board; Chairman of the Pension Commission of Ontario; Special Advisor to Premier David Peterson; Chief Administrative Officer of the Municipality of Metropolitan Toronto; Executive Director, Metropolitan Chairman's Office; and Executive Assistant to the Metropolitan Chairman. Prior to entering the public service he held senior executive positions in the private sector.

ADMINISTRATION OF THE BOARD

The Board's employee complement to March 31, 1990, increased slightly over last year, due to the hiring of a number of contract employees in the last quarter of 1989/90 to assist with a backlog of applications at the processing level. Staff provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings and the preparation of Board orders and decisions.

REVIEW OF BOARD'S OPERATIONS

A firm of management consultants was recently hired to review and make recommendations on all aspects of Board, staff and case management processes. In addition, the procedure for hearings involving larger and more complex matters is being revised and other changes will be introduced in the 1990/91 fiscal period to speed up the hearing process.

WORKLOAD

The Board experienced a further increase in its workload to the end of fiscal year 1989/90. A statistical comparison follows:

TYPE OF APPLICATION, APPEAL OR REFERRAL RECEIVED BY THE O.M.B.	1989-90	1988-89	1987-88
1. Assessment Appeals	731	886	1071
2. Capital Expenditures of Municipalities and School Boards	1474	1541	1506
3. Zoning By-law Appeals/Approvals	749	761	628
4. Appeals from Councils' Refusal to Amend Zoning By-laws	270	257	188
5. Minor Variance Appeals	883	820	715
6. Consent Appeals	1157	848	665
7. Official Plans	207	242	150
8. Plans of Subdivision	80	87	50
9. Miscellaneous	158	140	137
10. Land Compensation	31	37	23
11. Consolidated Hearings	15	17	2
TOTAL	5755	5636	5135

NEW LEGISLATION

The passing of a number of new pieces of legislation which came into effect during this period, will also impact on the Board's workload. These are:

BILL 90 On December 19, 1989, Bill 90, an Act to amend the Municipal Act and certain other acts related to municipalities, received Royal Assent. Amongst other amendments, this Bill deletes the requirement for Board approval of the rates imposed or proposed to be imposed to recover the capital cost of sewage and water works under Section 218 of the Municipal Act.

Bill 90 also deletes the requirement for Board approval of by-laws passed by Regional Municipalities to designate, expand or alter urban service areas.

BILL 170 Bill 170 (Aggregate Resources Act, 1989), received Royal Assent on June 20, 1989. It repealed the Pits and Quarries Control Act, Chapter 378, R.S.O. 1980 and the Pits and Quarries Control Amendment Act, 1988, Chapter 55. This Bill also made amendments to several other acts related to aggregate resources.

As of July 1, 1990, all applicants for pit and quarry licenses must provide additional documentation to meet the new procedural requirements. Parties who had applications before the Board were notified of the new requirements stipulated in the act and were advised that if this information was not made available at the time of the hearing, the Board could adjourn the matter if it was determined that it was necessary in order to fully evaluate the application.

BILL 31 Bill 31, which received Royal Assent on October 16, 1989, made changes to the Cemetaries Act. Section 5 of Bill 31 gives the Board the new responsibility of jurisdiction over appeals from a municipality's decision regarding requests for approval to establish or enlarge a cemetary or crematorium.

BILL 211 Bill 211, an Act to revise the Rental Housing Protection Act, 1986, received Royal Assent on June 29, 1989. This Bill deletes the provision for a petition to Cabinet from a decision of the Ontario Municipal Board. Bill 211 also amends the definition of "person" to include an unincorporated association.

Unlike the previous legislation, Bill 211 does not contain a date on which the provisions of same will cease to be in effect.

BILL 46 Bill 46, an Act to establish a Commercial Concentration Tax received Royal Assent on December 19, 1989. This Act establishes that large commercial structures and commercial parking lots within the Greater Toronto Area be subject to a commercial concentration tax.

This Act is applicable for the taxation year commencing January 1, 1990.

Section 11 of the Commercial Concentration Tax Act, 1989 allows an appeal to the Board from a decision of the Assessment Review Board.

BILL 20 On November 23, 1989, Bill 20 an Act to provide for the payment of Development Charges received Royal Assent. The title of this Act is the Development Charges Act, 1989.

The Development Charges Act permits municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. It not only addresses the need for hard services, but also provides for offsite soft services such as added police and fire protection. Municipalities have two years to bring their lot levy policies into conformity with the requirements of the Act. The legislation provides for an appeal to the Ontario Municipal Board by those on whom this levy has been imposed.

ASSESSMENTS

The past year has seen the resolution of many long outstanding matters in the Board's Assessment Appeals Division which were held pending the resolution of certain legal issues. A number of large multi-property appeals were and are in the process of being finalized namely: Brewers Warehousing Company Limited and Bell Canada.

As expected this year has seen the resolution of many of the outstanding complaints affecting condominiums across the province. Approximately 20,000 of the 35,000 outstanding complaints affecting condominiums have been or are to be resolved.

COMBINED DECISIONS AND ORDERS

In continuing its efforts to streamline its procedures and to provide a more efficient and expeditious service to its client groups, the Board will adopt a new procedure with respect to the release of decisions and orders. Where possible, the Board will combine the decision and the order into one document.

Currently, decisions issue separate from and prior to the Board's order. If a favourable decision is rendered, the client cannot proceed until a formal Board order is available. This procedure will eliminate the often lengthy and costly period of time elapsing between the issue of the decision and the order.

NEW TECHNOLOGY

The Board is continuing to look at ways to enhance its office technology. Additional laptops were acquired in this fiscal year for the members' use in the preparation of their decisions. In a further attempt to expedite the decision process a voicewriter system, which will enable members to transmit their decisions using the telephone system from anywhere in the province, is being investigated.

Negotiations with Q.L. Systems, which would put all Ontario Municipal Board decisions on the Q.L. database, have been concluded. Access to the Q.L. database should be available in the very near future through the law firms and public libraries who subscribe to this service. It will also greatly assist members of the Board in their research and decision writing.

HEARINGS

The Hearings Division scheduled 2552 hearings involving 3915 files during the 1989-1990 fiscal year.

The number of actual hearings held was 1912 involving 2974 files. The following chart provides information on the type of hearings over the last three fiscal years:

	HEARINGS SCHEDULED			HEARINGS HELD		NUMBER OF FILES SCHEDULED		HEARD	
	1989-90	1988-89	1987-88	**1989-90**	1988-89	**1989-90**	1988-89	**1989-90**	1988-89
Planning & Municipal	1988	1980	1884	1557	1475	3016	2598	2404	2081
Assessment Appeals	510	374	447	330	268	842	669	542	498
Land Compensation	32	36	35	15	21	42	43	15	27
Consolidated Hearings	12	13	0	10	12	15	14	13	13
TOTAL	2552	2403	2366	1912	1776	3915	3324	2974	2619

It should be noted that the difference between 2552 hearings scheduled and the 1912 actually held, represents 640 adjournments and withdrawals. If the Board is advised of an adjournment or withdrawal less than 30 days before the start of the hearing, it is possible the Board will not be able to schedule another hearing in time to utilize that Member. As a result, the Board requests that all adjournments or withdrawals be communicated to the Board's Hearings Division as soon as possible prior to the hearing.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected under Section 98 of the Act are reported as Miscellaneous. They include subscriptions to Ontario Municipal Board decisions, publications and photocopying charges. The fees collected by the Board are paid to the Treasurer of Ontario.

Application, Appeal or Referral Type	1988-89 Fees Collected	1989-90 Fees Collected
Capital Expenditures	$ 629,675.30	$ 636,822.50
Planning Act Matters	$ 375,535.00	$ 413,575.00
Assessment Appeals	$ 161,055.00	$ 137,530.00
Miscellaneous	$ 27,237.66	$ 28,601.55
TOTAL	$1,193,502.96	$1,216,529.05

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

Account Item	1988-89	1989-90
Salary & Wages	$4,039,669.00	$4,316,000.00
Employee Benefits	$ 570,830.00	$ 650,500.00
Transportation & Communications	$ 410,805.00	$ 472,200.00
Services	$ 254,373.00	$ 201,000.00
Supplies & Equipment	$ 244,671.00	$ 97,200.00
Transfer Payments	$ 10,000.00	$ 10,000.00
TOTAL EXPENDITURES	$5,530,348.00	$5,746,900.00

CHART A

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

Assessment Act
Barrie-Innisfil Annexation Act, 1981
Barrie-Vespra Annexation Act, 1984
Beach Protection Act
Cemeteries Act
Conservation Authorities Act
Consolidated Hearings Act
County of Oxford Act
District Municipality of Muskoka Act
District Welfare Administration Boards Act
Education Act
Environmental Assessment Act
Evidence Act
Expropriations Act
Haliburton Act
Homes for the Aged and Rest Homes Act
Housing Development Act
Legal Aid Act
Legislative Assembly Act
Liquor Licence Act
Local Improvement Act
Mining Tax Act
Moosonee Development Area Board Act
Municipal Act
Municipal Affairs Act
Municipal Boundary Negotiations Act, 1981
Municipal Corporations Quieting Orders Act
Municipal Elections Act
Municipal Franchises Act
Municipal Tax Assistance Act
Municipality of Metropolitan Toronto Act
Niagara Escarpment Planning and Development Act
Ontario Education Capital Aid Corporation Act
Ontario Heritage Act
Ontario Highway Transport Board Act
Ontario Municipal Board Act
Ontario Municipal Improvement Corporation Act
Ontario Northland Transportation Commission Act
Ontario Planning and Development Act
Ontario Universities Capital Aid Corporation Act
Ontario Water Resources Act
Ontario Telephone Development Corporation Act
Pits and Quarries Control Act
Planning Act
Power Corporation Act
Public Commerical Vehicles Act
Public Libraries Act
Public Service Works on Highway Act
Public Transportation and Highway Improvement Act
Public Utilities Act
Railways Act
Regional Municipality of Durham Act
Regional Municipality of Haldimand-Norfolk Act
Regional Municipality of Halton Act
Regional Municipality of Hamilton-Wentworth Act
Regional Municipality of Niagara Act
Regional Municipality of Ottawa-Carleton Act
Regional Municipality of Peel Act
Regional Municipality of Sudbury Act
Regional Municipality of Waterloo Act
Regional Municipality of York Act
Registry Act
Regulations Act
Rental Housing Protection Act, 1986
St. Lawrence Parks Commission Act
Shoreline Property Assistance Act
Telephone Act
Territorial Division Act
Tile Drainage Act
Trees Act
Trustee Act

Note: In addition to this list (which may not be complete), there are in excess of 100 private Acts for individual municipalities which confer specific jurisdiction and authority on the Board.

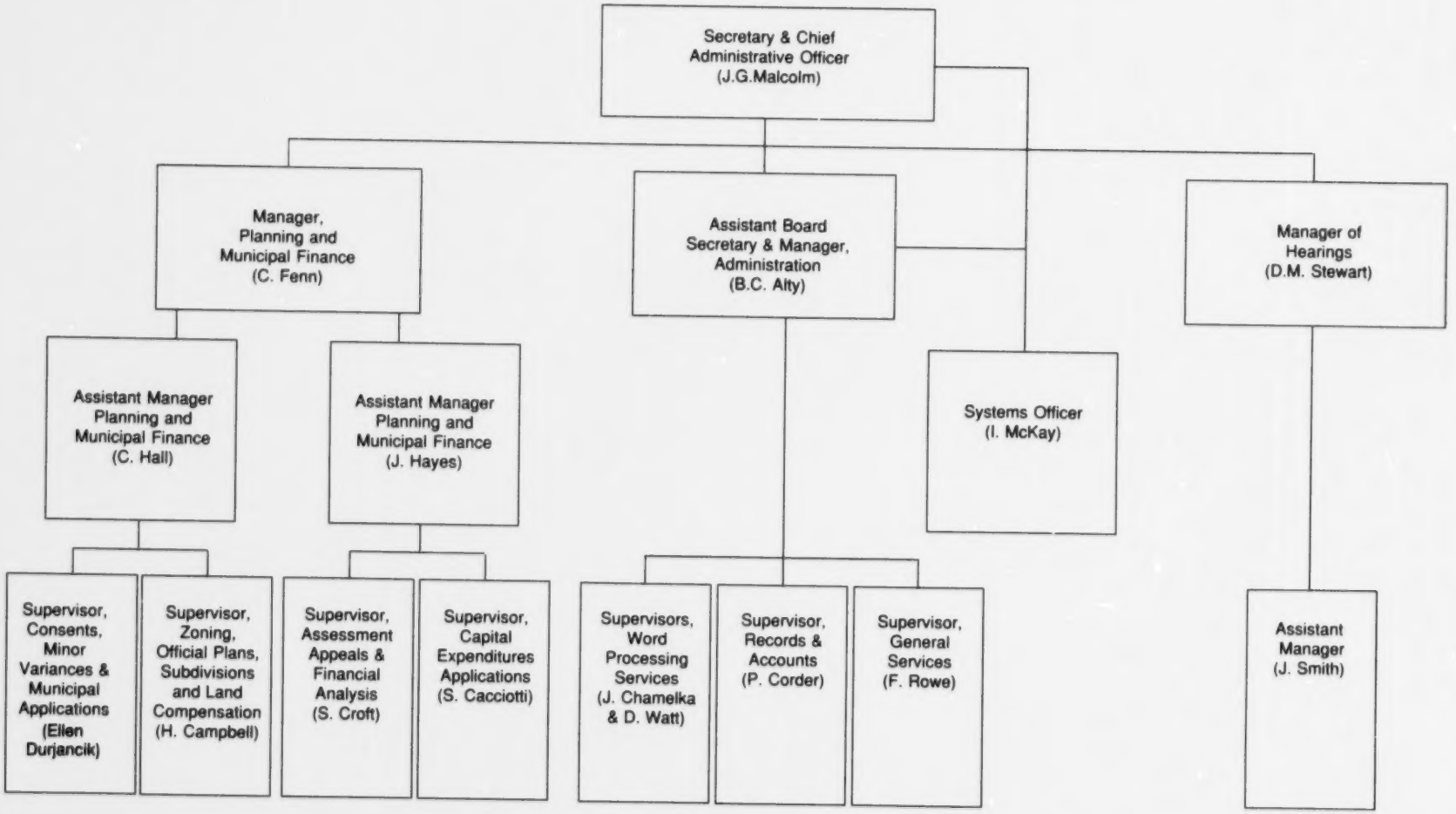
Chart B

MEMBERS OF THE ONTARIO MUNICIPAL BOARD
1989-90

Members	Date of Appointment
H. E. Stewart, Chairman	April 1, 1974 September 1, 1979 March 1990 — Retired
John P. Kruger, Chairman	March 19, 1990
D. S. Colborne, Vice-Chairman	September 3, 1968 June 1, 1977
P. M. Brooks, Q.C., Vice-Chairman	November 1, 1973 November 13, 1980 April 30, 1989 — Retired
H. H. Lancaster, Q.C., Vice-Chairman	September 7, 1970 June 30, 1981
D. H. McRobb, Vice-Chairman	January 3, 1978 October 22, 1982
T. F. Baines, Q.C., Vice-Chairman	March 17, 1980 October 5, 1989
A. J. L. Chapman, Q.C., Vice-Chairman	September 30, 1974 October 5, 1989
P. G. Wilkes, Vice-Chairman	January 16, 1978 October 5, 1989
A. B. Ball	January 1, 1974
J. A. Wheler, Q.C.	September 3, 1974
C. G. Charron, Q.C.	February 1, 1975 March 31, 1990 — Retired
K. D. Bindhardt	January 2, 1976
D. L. Santo	March 10, 1980
S. R. Cole	October 8, 1981
G. M. Hobart	October 8, 1981 July 31, 1989 — Retired
D. W. Middleton	October 8, 1981
J. R. Mills	May 10, 1982
P. H. Howden, Q.C.	July 19, 1982
E. F. Crossland	November 1, 1982 January 31, 1990 — Retired
G. A. Harron	December 1, 1982
M. A. Rosenberg, Q.C.	January 3, 1983
R. D. M. Owen	January 4, 1983
R. W. Rodman	March 14, 1983
G. I. Thomson, Q.C.	May 2, 1983
Brian W. McLoughlin	January 1, 1984
René Chartier	February 1, 1984 April 5, 1989 — Resigned
M. E. Johnson	July 12, 1988
S. W. Lee	July 1, 1988
J. R. Tomlinson	September 6, 1988
A. Delfino	January 3, 1989
C. Millar	May 15, 1989
Ted Yao	July 3, 1989
N. Katary	August 1, 1989
W. R. F. Watty	August 1, 1989
R. Eisen, Q.C.	January 16, 1990

Chart C

ADMINISTRATION OF THE ONTARIO MUNICIPAL BOARD


Secretary & Chief Administrative Officer (J.G.Malcolm)
Manager, Planning and Municipal Finance (C. Fenn)
Assistant Board Secretary & Manager, Administration (B.C. Alty)
Manager of Hearings (D.M. Stewart)
Assistant Manager Planning and Municipal Finance (C. Hall)
Assistant Manager Planning and Municipal Finance (J. Hayes)
Systems Officer (I. McKay)
Supervisor, Consents, Minor Variances & Municipal Applications (Ellen Durjancik)
Supervisor, Zoning, Official Plans, Subdivisions and Land Compensation (H. Campbell)
Supervisor, Assessment Appeals & Financial Analysis (S. Croft)
Supervisor, Capital Expenditures Applications (S. Cacciotti)
Supervisors, Word Processing Services (J. Chamelka & D. Watt)
Supervisor, Records & Accounts (P. Corder)
Supervisor, General Services (F. Rowe)
Assistant Manager (J. Smith)